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HOUSE BILL 616

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Joe Nestor Chavez

AN ACT

RELATING TO GAMING; AMENDING SECTION 11-13-2 NMSA 1978 (BEING LAWS 1997, CHAPTER 190, SECTION 2) TO PROVIDE FOR PAYMENT OF INTEREST ON DELINQUENT REVENUE-SHARING PAYMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 11-13-2 NMSA 1978 (being Laws 1997, Chapter 190, Section 2) is amended to read:

"11-13-2. REVENUE SHARING OF TRIBAL GAMING REVENUE. -- The governor is authorized to execute a revenue-sharing agreement in the form substantially set forth in this section with any New Mexico Indian nation, tribe or pueblo that has also entered into an Indian gaming compact as provided by law. Execution of an Indian gaming compact is conditioned upon execution of a revenue-sharing agreement. The consideration for the Indian entity entering into the revenue-sharing

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1 agreement is the condition of the agreement providing limited
2 exclusivity of gaming activities to the tribal entity. The
3 revenue-sharing agreement shall be in substantially the
4 following form and is effective when executed by the governor
5 on behalf of the state and the appropriate official of the
6 Indian entity:

7 "REVENUE-SHARING AGREEMENT

8 1. Summary and consideration. The Tribe shall agree to
9 contribute a portion of its Class III Gaming revenues
10 identified in and under procedures of this Revenue-Sharing
11 Agreement, in return for which the State agrees that the
12 Tribe:

13 A. has the exclusive right within the State to
14 provide all types of Class III Gaming described in the Indian
15 Gaming Compact, with the sole exception of the use of Gaming
16 Machines, which the State may permit on a limited basis for
17 racetracks and veterans' and fraternal organizations; and

18 B. will only share that part of its revenue
19 arising from the use of Gaming Machines and all other gaming
20 revenue is exclusively the Tribe's.

21 2. Revenue to State. The parties agree that, after the
22 effective date hereof, the Tribe shall make the quarterly
23 payments provided for in Paragraph 3 of the Revenue-Sharing
24 Agreement to the state treasurer for deposit into the General
25 Fund of the State ("State General Fund").

1 3. Calculation of Revenue to State.

2 A. As used in this Revenue-Sharing Agreement, "net
3 win" means the annual total amount wagered at a Gaming
4 Facility on Gaming Machines less the following amounts:

5 (1) the annual amount paid out in prizes from
6 gaming on Gaming Machines;

7 (2) the actual amount of regulatory fees paid
8 to the state; and

9 (3) the sum of two hundred fifty thousand
10 dollars (\$250,000) per year as an amount representing tribal
11 regulatory fees, with these amounts increasing by five percent
12 (5%) each year beginning on the first day of January occurring
13 after the Compact has been in effect for at least twelve
14 months.

15 B. The Tribe shall pay the state sixteen percent
16 (16%) of the net win.

17 C. For purposes of these payments, all
18 calculations of amounts due shall be based upon the quarterly
19 activity of the gaming facility. Quarterly payments due to
20 the State pursuant to these terms shall be paid no later than
21 twenty-five (25) days after the last day of each calendar
22 quarter. Any payments due and owing from the Tribe in the
23 quarter the Compact is approved, or the final quarter the
24 Compact is in force, shall reflect the net win, but only for
25 the portion of the quarter the Compact is in effect.

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1 D. Amounts payable pursuant to this section that
2 are delinquent for more than thirty days shall bear interest
3 from the thirty-first day until paid at a rate equal to the
4 then effective federal internal revenue service rate of
5 interest imposed on delinquent amounts owed by taxpayers.

6 4. Limitations. The Tribe's obligation to make the
7 payments provided for in Paragraphs 2 and 3 of this section
8 shall apply and continue only so long as there is a binding
9 Indian Gaming Compact in effect between the Tribe and the
10 State, which Compact provides for the play of Class III
11 Gaming, but shall terminate in the event of any of the
12 following conditions:

13 A. If the State passes, amends, or repeals any
14 law, or takes any other action, which would directly or
15 indirectly attempt to restrict, or has the effect of
16 restricting, the scope of Indian gaming.

17 B. If the State permits any expansion of nontribal
18 Class III Gaming in the State. Notwithstanding this general
19 prohibition against permitted expansion of gaming activities,
20 the State may permit: (1) the enactment of a State lottery,
21 (2) any fraternal, veterans or other nonprofit membership
22 organization to operate [~~such electronic gaming devices~~]
23 gaming machines lawfully, but only for the benefit of such
24 organization's members, (3) limited fundraising activities
25 conducted by nonprofit tax exempt organizations pursuant to

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1 Section 30-19-6 NMSA 1978, and (4) any horse racetracks to
2 operate [~~electronic gaming devices~~] gaming machines on days on
3 which live or simulcast horse racing occurs.

4 5. Effect of Variance. In the event the acts or
5 omissions of the State cause the Tribe's obligation to make
6 payments under Paragraph 3 of this section to terminate under
7 the provisions of Paragraph 4 of this section, such cessation
8 of obligation to pay will not adversely affect the validity of
9 the Compact, but the amount that the Tribe agrees to reimburse
10 the State for regulatory fees under the Compact shall
11 automatically increase by twenty percent (20%).

12 6. Third-Party Beneficiaries. This Agreement is not
13 intended to create any third-party beneficiaries and is
14 entered into solely for the benefit of the Tribe and the
15 State. ". "

16 Section 2. EFFECTIVE DATE. --The effective date of the
17 provisions of this act is July 1, 1999.